

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	CRIMINAL NO. 4:14-CR-074-Y
	§	
JONATHAN DANIEL KUTEJ (1)	§	

MOTION TO SUPPRESS EVIDENCE

TO THE HONORABLE JUDGE TERRY R. MEANS:

NOW COMES the Defendant, JONATHAN DANIEL KUTEJ (1), who by and through the undersigned counsel, moves this Honorable Court to suppress all evidence seized on August 26, 2013 in a search of a phone that was allegedly the Defendant's phone, and in support of said Motion, Defendant would respectfully show the following:

1. The Defendant would show that the above described search was unreasonable and illegal, in violation of the Fourth Amendment of the United States Constitution, and is therefore inadmissible as evidence in the case at bar.
2. A State of Texas search warrant was issued by the Judge of the Criminal Court at Law in Hood County, Texas for Hood County District Attorney's Office Evidence Room, 1200 W. Pearl, Hood County, Texas 76048, which contains 1-Black Apple iPhone Cell Phone #817.736.5198 seized from Jonathan Daniel Kutej on 08-15-2013.
3. Article I, Section 9 of the Texas Constitution prohibits general warrants which fail to particularly describe the property to be seized and prohibits "general, exploratory, rummaging in a person's belongings." *Andresen v. Maryland*, 427 U.S. 463, 96 S.Ct. 2737, 2748, 49 L.Ed.2d 627 (1976); *Gonzales v. State*, 477 S.W.2d 226 (Tex.Cr.App.1979). A warrant must particularly describe things to be seized, otherwise it is a general warrant and

leaves what is taken to the direction of the police.

4. The search warrant of the phone did not state a unique serial number for the phone. There is no evidence that the phone number stated in the warrant was assigned to the Defendant's phone at any time. The warrant did not particularly describe the thing to be seized.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that this Motion be in all things granted.

Respectfully submitted,

s/J. Warren St. John
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ATTORNEY FOR DEFENDANT (1)

CERTIFICATE OF CONFERENCE

I hereby certify that on November 4, 2014, my office corresponded with Ms. Aisha Saleem in order to determine whether she would or would not oppose the foregoing Motion to Suppress Evidence. Ms. Saleem was unavailable.

s/J. Warren St. John
J. WARREN ST. JOHN

Attorney for Defendant (1)

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2014, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means: Ms. Aisha Saleem.

s/J. Warren St. John
J. WARREN ST. JOHN

Attorney for Defendant (1)